

FILED

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

JUN 28 2000

PEGGY B. DEANS, CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF N.C.

IN RE:

CASE NO.

INTERNATIONAL HERITAGE, INC.,
INTERNATIONAL HERITAGE
INCORPORATED,

98-02675-5-ATS

98-02674-5-ATS

DEBTORS

ORDER DENYING MOTIONS FOR STAYS PENDING APPEALS AND ORDER
DIRECTING APPELLANTS TO IDENTIFY DOCUMENTS

On June 7, 2000, the court entered orders allowing Holmes P. Harden, the chapter 7 trustee for International Heritage, Inc. and International Heritage Incorporated, to enter into a settlement with the United States Attorney for the Eastern District of North Carolina. As part of the settlement, the trustee waived the attorney-client privilege with respect to the debtors' prepetition communications with counsel. Appeals were filed by Georgina Mollick, John Brothers and Dee Brothers, Claude Savage, Stanley H. Van Etten and Wood & Francis, PLLC. The appellants filed motions for stays of the court's orders of June 7, 2000, pending the appeals. The trustee objects to the stays and requests that the court require "each of the movants to identify with specificity for the Trustee each document that he or she alleges to be subject to his or her individual claim of privilege and that all documents not so identified be ordered delivered to the Trustee immediately." (Trustee's Response, June 26, 2000).

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"[A] party seeking a stay pending appeal must show (1) that he will likely prevail on the merits of the appeal, (2) that he will suffer irreparable injury if the stay is denied, (3) that the parties will not be substantially harmed by the stay, and (4) that the public interest will be served by granting the stay." Long v. Robinson, 432 F.2d 977, 979 (4th Cir. 1970).

The trustee maintains that it is well established that a trustee for a chapter 7 corporation may waive the attorney-client privilege for the corporation and that it is unlikely that the orders of June 7, 2000, will be modified on appeal. Commodity Futures Trading Commission v. Weintraub, 471 U.S. 343, 105 S. Ct. 1986 (1985). The court agrees with the trustee and will not grant a stay pending appeal. However, the court will temporarily stay the effect of the order for 10 days to permit the appellants to request a stay from the United States District Court. FED. R. BANKR. P. 8005.

If a stay is not granted by the district court, each appellant shall, before July 18, 2000, identify any documents that he or she alleges to be subject to his or her individual claim of privilege.

SO ORDERED.

DATED: 28 JUN 2000



A. Thomas Small
Bankruptcy Judge

U.S. Bankruptcy Court for the Eastern District of North Carolina

CLERK, U.S. BANKRUPTCY COURT

POST OFFICE BOX 1441

RALEIGH, N.C. 27602-1441

In Re a Petition for Relief under Chapter 7 of Title 11, U.S. Code, filed by or against the below-named Debtor on November 25, 1998:

DEBTOR: INTERNATIONAL HERITAGE, INC. of C/O MAYFLOWER CAPITAL, LLC, 2626 GLENWOOD AVENUE, SUITE 100, RALEIGH, NC 27608; SSN: N/A, EIN: 56-1921093

CASE NO. 98-02675-5-ATS

ORDER AND NOTICE
BY THE COURT

CERTIFICATE OF MAILING

I am a regularly appointed and qualified deputy clerk in the office of the clerk, in and for said court and district, and I hereby certify that a copy of the attached document was mailed in a postage prepaid envelope addressed to the following at their respective addresses, by placing said envelope in the regular mail in Raleigh, NC, on this date.

DATED: 28 JUN 2000


DEPUTY CLERK

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